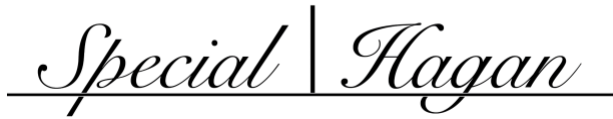


THE LAW OFFICES OF



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Monday, May 2, 2022

VIA EMAIL and ECF

Honorable District Judge John P. Cronan
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street, Courtroom 20C
New York, New York 10007-1312

Re: Kaye v. Health and Hospitals Corporation et. al.
18-CV-12137(JPC)(JLC)

Dear Honorable District Judge Cronan:

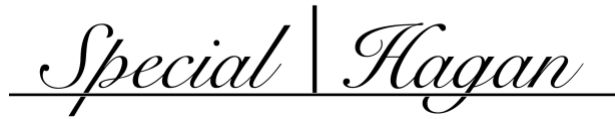
Plaintiff respectfully submits this letter in further support of her motion. (ECF Dkt. 235) I am aware that the Court is incredibly busy, so I apologize for the additional correspondence. However, Plaintiff's opposition to Defendants' motion is due today, and I wanted to be sure that Plaintiff remained in compliance with the Court's Scheduling Order. Accordingly, I made a joint call with Defense Counsel to Chambers at 9:05AM this morning. I was then contacted separately by Your Honor's Clerk at 9:36AM, who said that an order from the Court remains pending.

Although there were multiple complaints filed, on April 30, 2019 and May 2, 2019, Plaintiff sought leave to file a corrected Amended Complaint with the Court. (ECF Dkts. 25 and 26) On May 3, 2019, the Court granted Plaintiff leave to re-file. (ECF. Dkts. 27-28) Based on the Court's Memo Endorsements, Plaintiff re-filed her Amended Complaint on May 3, 2019. (ECF. Dkt. 29)

Unfortunately, Defendants has directed motion practice at an inoperative complaint. Pursuant to Fed. R. Civ. P. 15 and precedent, it has been repeatedly found, that once the Court has granted leave to file an amended complaint, any motions directed at the previously filed complaint have been rendered moot. Shannon v. Venettozzi, 749 F. App'x 10, 13 (2d Cir. 2018); see also Miller v. Am. Export Lines, Inc., 313 F.2d 218, 218 (2d Cir. 1963) Similar to the circumstances herein, Courts have deemed motions for summary judgment directed at Plaintiff's second amended complaint moot, because the Plaintiff had filed a third amended complaint after she had secured leave of the Court. Mochama v. Zwetow, No. 14 2121-KHV, 2015 WL 3843247, at * 2 (D. Kan. June 22, 2015)

In closing, Plaintiff respectfully apologizes again for taking up any more of the Court's time on this issue. However, in the interests of justice, the conservation of the Court's resources and my obligations as an Officer of this Court, I feel compelled to notify the Court of a manifest error and seek resolution of my client's claims on the merits.

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Respectfully submitted,

/s/

Special Hagan
Counsel for Plaintiff, Melissa Kaye, M.D.

Cc: Donna Canfield,
Counsel for Defendants